IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7507 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

S A PATEL

Versus

DIVISIONAL CONTROLLER

Appearance:

1. Special Civil Application No. 7507 of 1995

MR IS SUPEHIA for Petitioner No. 1

NOTICE SERVED for Respondent No. 1,2

MR YOGESH S LAKHANI for Respondent No. 2

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 20/03/2002

ORAL JUDGEMENT

Heard learned advocate Mr. Supehia for the petitioner and Ms. Thakkar for Mr. Lakhani, learned advocate for the respondents. In this petition, the

petitioner driver has challenged the order of termination dated 13th January, 1995 passed by the corporation on the basis of the certificate issued by the Civil Surgeon, Civil Hospital that the petitioner driver is permanently unfit for the post of driver and, therefore, in view of such certificate, his service was terminated by the corporation. It is necessary to be noted that the service of the petitioner has been terminated on January 13, 1995 and in the same year, in November, 1995, the petitioner was to reach the age of superannuation. Considering this aspect of the matter, there is a settlement between the petitioner corporation and the recognized union dated 21st December, 1989. Item 30 of the said settlement provides that if any employee died during the course of employment or declared unfit for the post by the civil surgeon, then, one of his family members has to be given appointment on compassionate ground. In view of item 30 of the said settlement, it is open for the petitioner to approach the corporation under the said provisions of the settlement for appointment on compassionate ground to any one of his family members. As and when such an application is received by the corporation from the petitioner, same shall be decided sympathetically by the corporation in accordance with the terms of the settlement dated 21st September, 1989, item no. 30 in particular, and to pass appropriate speaking reasoned order in accordance with law whether any dependent of the petitioner is entitled to compassionate appointment or not. Such order shall be passed by the corporation as early as possible preferably within three months from the date of receipt of such application from the petitioner's family member in this regard. With these observations and directions, this petition is disposed of. Rule is made absolute in terms indicated hereinabove with no order as to costs.

20.3.2002. (H.K. Rathod,J.)
Vyas